THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

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WRIT PETITION NO : 25100 of 2005

Dated: 28.11.2005

Between:

R.V.K.Rao, s/o R.V.Vithal Rao,
Resident of Anantapur, Anantapur District.

..... PETITIONER

AND

The Depot Manager, APSRTC,

Anantapur Depot, Anantapur.

.....RESPONDENT

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.25100 of 2005

O R D E R:

The petitioner is employed as driver in APSRTC. He was issued a Charge Sheet, dated 24.01.1996, on the allegation that he was unauthorisedly absented for duty on 11.01.1996, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him. The petitioner submitted his explanation to the same. On a consideration of the same, the respondent passed an order, dated 02.04.1996, imposing the penalty of withholding

of one annual increment for a period of two years, with cumulative effect. Hence, this writ petition.

The only point urged by the learned counsel for the petitioner is that the respondent imposed the penalty of withholding of one annual increment, for a period of two years, with cumulative effect, without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in ***KULWANTH SINGH GILL v. STATE OF PUNJAB,*** and submits that withholding the annual increment is a major penalty, and it cannot be imposed, except by conducting departmental enquiry.

Learned Standing Counsel for the respondent, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the respondent imposed the penalty of withholding of one annual increment, for a period of two years, with cumulative effect, on the basis of the charges levelled against him. Though the charge sheet was issued to the petitioner, before the penalty was imposed, no departmental enquiry was conducted. In ***KULWANTH SINGH GILL's case*** (supra), the Supreme Court held that stoppage of increments, with cumulative effect, is a major penalty, and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the respondent to pass fresh orders. To avoid further delay and complication in the mater, this Court is of the view that the impugned order can be treated, as the one for withholding of annual increment, without cumulative effect.

Hence, the writ petition is partly allowed, directing that the order, dated 02.04.1996, passed by the respondent, shall be treated as the one for withholding of annual increment, for a period of two years, without cumulative effect, and that the petitioner shall not be entitled for any monetary benefits, up to the date of this order. There shall be no order as to costs.

28th November 2005

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